

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
	:
NICHOLAS J. GENOVESE,	:
	:
Plaintiff,	:
	:
-v-	25-CV-2704 (JMF)
	:
SECURITIES AND EXCHANGE COMMISSION,	<u>ORDER</u>
	:
Defendant.	:
	:
-----X	

JESSE M. FURMAN, United States District Judge:

Plaintiff, who is appearing *pro se* and who is currently serving a federal sentence on home confinement, brings this action seeking an injunction enjoining Defendant from violating his federal constitutional rights. The Court construes Plaintiff's "Emergency Motion to Stay Administrative Proceedings," ECF No. 1; Motion for Preliminary Injunctive Relief, ECF No. 3; and Affidavit in support of his motions, ECF No. 4, as a single operative pleading. By order dated April 2, 2025, the Court granted Plaintiff's request to proceed *in forma pauperis* ("IFP"), that is, without prepayment of fees.

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.¹ *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process

¹ Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summons and the complaint until the Court reviewed the complaint and ordered that the summons be issued. The Court therefore extends the time to serve until 90 days after the date the summons is issued.

. . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP).

To allow Plaintiff to effect service on Defendant Securities and Exchange Commission (“SEC”) through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant. The Clerk of Court is further instructed to: (1) mark the box on the USM-285 form labeled “Check for service on U.S.A.”; and (2) issue a summons and deliver to the Marshals Service a copy of this order and all other paperwork necessary for the Marshals Service to effect service on the United States.

It is Plaintiff’s responsibility to ensure that service is made within 90 days of the date the summons is issued and, if necessary, to request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012). Plaintiff also must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is directed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for Defendant Securities and Exchange Commission. The Clerk of Court is further instructed to: (1) mark the box on the USM-285 form labeled “Check for service on U.S.A.”; and (2) issue a summons and deliver to the Marshals Service a copy of this order and all other paperwork necessary for the Marshals Service to effect service on Defendant.²

The Clerk of Court is further directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: April 4, 2025
New York, New York



JESSE M. FURMAN
United States District Judge

² The fact that the SEC filed a reply memorandum on March 14, 2025, in the underlying administrative proceeding, *see* ECF No. 3, ¶ 8, does not appear to warrant the Court’s immediate intervention. As such, the Court will reserve judgment on Plaintiff’s motions until service has been made and Defendant has appeared.

SERVICE ADDRESSES FOR DEFENDANT

1. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549
2. Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
3. United States Attorney for the Southern District of New York
Civil Division
86 Chambers Street, 3rd Floor
New York, NY 10007